

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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JAMES DAVID McCLAIN,

Case No. 3:14-cv-00269-MMD-VPC

Petitioner,

ORDER

v.

ROBERT LeGRAND,

Respondents.

Petitioner has submitted an application to proceed *in forma pauperis* (dkt. no. 1) and a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. The Court finds that petitioner is unable to pay the filing fee.

Petitioner has submitted a motion for appointment of counsel. Petitioner is unable to afford counsel, and the issues presented warrant the appointment of counsel. See 18 U.S.C. § 3006A(a)(2)(B).

Petitioner has submitted a motion for production of transcripts at government expense (dkt. no. 3). The appointment of counsel makes this motion moot.

It is therefore ordered that the application to proceed *in forma pauperis* (dkt. no. 1) is granted. Petitioner need not pay the filing fee of five dollars (\$5.00).

It is further ordered that the Clerk of the Court shall file the petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254.

It is further ordered that the Clerk of the Court file the motion for appointment of counsel.

1 It is further ordered that petitioner's motion for appointment of counsel is granted.
2 The Federal Public Defender is provisionally appointed to represent petitioner.

3 It is further ordered that the Federal Public Defender shall have thirty (30) days
4 from the date that this order is entered to undertake direct representation of petitioner or
5 to indicate to the Court his inability to represent petitioner in these proceedings. If the
6 Federal Public Defender does undertake representation of petitioner, he shall then have
7 sixty (60) days to file an amended petition for a writ of habeas corpus. If the Federal
8 Public Defender is unable to represent petitioner, then the Court shall appoint alternate
9 counsel.

10 It is further ordered that neither the foregoing deadline nor any extension thereof
11 signifies or will signify any implied finding of a basis for tolling during the time period
12 established. Petitioner at all times remains responsible for calculating the running of the
13 federal limitation period and timely asserting claims.

14 It is further ordered that the Clerk shall add Catherine Cortez Masto, Attorney
15 General for the State of Nevada, as counsel for respondents.

16 It is further ordered that the Clerk shall electronically serve both the Attorney
17 General of the State of Nevada and the Federal Public Defender a copy of the petition
18 and a copy of this order.

19 It is further ordered that respondents' counsel shall enter a notice of appearance
20 within twenty (20) days of entry of this order, but no further response shall be required
21 from respondents until further order of the Court.

22 It is further ordered that any exhibits filed by the parties shall be filed with a
23 separate index of exhibits identifying the exhibits by number or letter. The CM/ECF
24 attachments that are filed further shall be identified by the number or numbers (or letter
25 or letters) of the exhibits in the attachment. The hard copy of any additional state court
26 record exhibits shall be forwarded — for this case — to the staff attorneys in Las Vegas.

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1 It is further ordered that petitioner's motion for production of transcripts at
2 government expense (dkt. no. 3) is denied as moot.

3 DATED THIS 23rd day of September 2014.

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6 MIRANDA M. DU
7 UNITED STATES DISTRICT JUDGE
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